

State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION
Division of Insurance
233 Richmond Street
Providence, RI 02903

INSURANCE REGULATION 55

**WORKERS' COMPENSATION RESIDUAL RISK MARKET -
PROMULGATION**

Table of Contents

Section 1	Purpose and Authority
Section 2	Residual Market Mechanism
Section 3	Servicing Carrier
Section 4	Individual Carriers
Section 5	Fresh Start Recovery
Section 6	Residual Market Policies
Section 7	Competition in the Voluntary Market
Section 8	National Council on Compensation Insurance
Section 9	Beacon Mutual Insurance Company

Section1 *Purpose and Authority*

The Director/Insurance Commissioner of the Department of Business Regulation has determined that a healthy voluntary market and an adequate residual risk market for workers' compensation insurance are necessary to the economic welfare of Rhode Island; that an independent voluntary market and an adequate residual risk market will benefit all employers, all employees and their families, and all workers' compensation insurance carriers doing business in Rhode Island; that without such a comprehensive approach, the orderly growth and economic development of the state would be impeded severely; that the continuation of the residual market mechanism and the orderly transition from such residual market mechanism administered by the National council on Compensation Insurance (the "NCCI") to The Beacon Mutual Insurance Company (formerly, the State Compensation Insurance Fund) ("Beacon Mutual") pursuant to R.I. Gen. Laws § 27-7.2-20(b)(3) are for the benefit of the public and in furtherance of a valid public purpose; that more than sixty (60) days have elapsed since the effective date of R.I. Pub. Laws Chapter 92-031 (92-H 8934 (substitute A)); that Beacon Mutual and the carriers servicing the residual market (the "Servicing Carriers") have despite best efforts not finally agreed on the terms of a contract providing for such orderly transition; and that the exercise of

emergency powers over the pool servicing carriers pursuant to R.I. Gen. Laws § 27-7.2-20(b)(3) is necessary to effect the orderly transition of the residual risk market.

NOW, THEREFORE, the following is hereby promulgated as Regulation 55.

Section 2 **Residual Market Mechanism**

That the present residual market mechanism, including the Workers' Compensation Insurance Plan and the pooling arrangement administered by NCCI (the "pool") shall remain in place and all assigned risk agreements pursuant to R.I. Gen. Laws § 27-9-43 shall continue in full force and effect during the period June 1, 1992 through December 31, 1992 (the "Transition Period") and thereafter for all policies issued prior to December 31, 1992; provided, however, that Beacon Mutual shall not participate in such pooling arrangement;

Section 3 **Servicing Carrier**

That with respect to policies with effective dates between June 1 and December 31, 1992, the servicing carrier allowance pursuant to the present pooling arrangement at forty-three percent (43%) shall be subject to adjustment as soon as practicable after December 31, 1995 consistent with R.I. Gen. Laws § 27-7.1-22, and shall be reduced to an amount equal to twelve and one-half percent (12.5%) of total losses (not premium) for residual market policies consistent with R.I. Gen. Laws § 27-7.1-22(b), acquisition and general expense at 4.45% and 8.85% of premium, respectively, and actual taxes and assessments paid, but not including contingencies and return to carrier unless -- and only to the extent that -- loss ratio exceeds one hundred twenty percent (120%), and in any event not to exceed 2.5% of premium;

Section 4 **Individual Carriers**

That with respect to policies with effective dates between June 1 and December 31, 1992, the individual carriers' share of the residual market deficit remaining after fresh start assessments pursuant to R.I. Gen. Laws § 27-7.1-22(a) shall be assessed by the pool against all carriers authorized on the effective date of this regulation to write workers' compensation insurance in Rhode Island based upon carrier's historical, voluntary net direct written premium for policy years 1969, 1990 and 1991;

Section 5 **Fresh Start Recovery**

That with respect to policies with effective dates between June 1 and December 31, 1992, the ninety percent (90%) recovered pursuant to the "fresh start" shall be the net deficits of all servicing carriers, and shall be allocated pro rata to those carriers that experienced deficits based on the amount of the deficit, however, no carrier shall collect any deficit that creates a loss ratio in excess of one hundred twenty percent (120%) of the pool average loss ratio without demonstrating good and proper cause; and

Section 6 **Residual Market Policies**

That effective for renewals with policy effective dates of and after January 1, 1993, residual market policies shall not be renewed through the existing residual market mechanism. The Servicing Carriers shall issue notices of nonrenewal of policies with 1993 expirations and such notices shall include information provided by Beacon Mutual explaining the procedures and requirements for obtaining coverage.

Section 7 **Competition in the Voluntary Market**

That in order to facilitate competition in the voluntary market, NCCI is instructed to make its residual market depopulation listing public, and is requested upon reasonable terms to make the experience rating forms for individual risks available to licensed agents and insurers with a bona fide interest in providing workers' compensation coverage in the Rhode Island voluntary market; provided, however, that the release of the following information will not be required: a) the premium dollar amount on accounts of less than one hundred thousand (\$100,000) in annual premium and b) the expiration date for all accounts.

Section 8 **National Council on Compensation Insurance**

That the National Council on Compensation Insurance (NCCI) performance standards are adopted as interim performance standards, and are to be enforced. Further, that during the first year of implementation, a workplace assessment visit shall take place for each risk not required to be formally inspected by NCCI standards; provided, however, that no such visit shall be required for a risk with a premium of five thousand dollars (\$5,000) or less and a loss ratio of one hundred fifty (150%) or less. The purpose of this visit shall be to identify workplaces that would benefit from more detailed assistance and to verify information included on the application for insurance.

Section 9 **Beacon Mutual Insurance Company**

That the Beacon Mutual Insurance Company shall surcharge to the extent permitted by law all employers canceled from the voluntary market for non-compliance with cost control standards recommended by their insurers, and all employers in the residual market who have failed to comply with cost control standards recommended by their servicing carriers. The Department will promulgate further regulations as needed.

EFFECTIVE DATE:	September 2, 1992
AMENDED:	December 23, 1992
	March 25, 1993
REFILED:	December 19, 2001